

MINUTES

MONTANA SENATE 56th LEGISLATURE - REGULAR SESSION COMMITTEE ON BUSINESS AND INDUSTRY

Call to Order: By **CHAIRMAN JOHN HERTEL**, on January 12, 1999 at 9:00 A.M., in Room 410 Capitol.

ROLL CALL

Members Present:

Sen. John Hertel, Chairman (R)
Sen. Mike Sprague, Vice Chairman (R)
Sen. Dale Berry (R)
Sen. Vicki Cocchiarella (D)
Sen. Bea McCarthy (D)
Sen. Glenn Roush (D)
Sen. Fred Thomas (R)

Members Excused: None.

Members Absent: None.

Staff Present: Bart Campbell, Legislative Branch
Mary Gay Wells, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 13, 1/5/1999
Executive Action: SB 13; SB 23

HEARING ON SB 13

Sponsor: SENATOR WALTER MCNUTT, SD 50, SIDNEY

Proponents: Steve Turkowicz, MT Auto Dealers Assoc.
Dean Roberts, Dept. of Justice, Administrator, MVD
John Cadby, MT Bankers Assoc.
Bob Pyfer, V-P, MT Credit Unions League
Mike Foster, MT Contractors Assoc.
Nancy Hargrove, Dept. of Justice, MVD

**Stuart Doggett, MT Manufactured Housing and
RV Dealers Assoc.
Joe Mazurek, Attorney General, Dept. of Justice**

Opponents: Cort Harrington, MT County Treasurers Assoc.

{Tape : 1; Side : A; Approx. Time Counter : 0.1}

Opening Statement by Sponsor:

SENATOR WALTER MCNUTT, SD 50, Sidney presented **SB 13**. In the last legislative session, I sponsored SB 152 which allowed for a pilot program for electronic search and filing of motor vehicle liens. There are many different kinds of liens: child support, enforcement liens, etc. that are not necessarily on the titles. This bill does two things. It expands the pilot project to include the possibility of registering and titling motor vehicles along with expanding the due date to 2008. To date, there has been very good progress on the first phase of the pilot project. The first stage should be launched in a few weeks. It has been an involved task to simplify the method of reporting and to receiving real-time information. The vehicle chosen to do this was the Internet. To date, no other state has accomplished this task. During the interim, the "lien team" has been meeting almost weekly. This team consists of delegates from the computer programmers from the Dept. of Justice, Motor Vehicle Division, Registrar of Motor Vehicles, county treasurers, auto dealers, banks, credit unions and Electronic Access. The private investor in this project is Electronic Access and they have been willing to invest in the project to the extent of almost \$1 million. The company is willing to continue on with this project to its completion and thus far the development has cost the State of Montana no money. There are people from the industry to testify and I reserve the right to close.

{Tape : 1; Side : A; Approx. Time Counter : 2.9}

Proponents' Testimony:

Steve Turkiewicz, MT Auto Dealers Assoc. We represent Montana's franchise for auto and truck dealers. In trade there are approximately 100,000 vehicles per year. Many of those vehicles come from a variety of places. In the market place, we find the concept of electronic lien filing very appealing and would be some protection for our citizens as well as our dealers. We urge your support of this bill.

Dean Roberts, Dept. of Justice, Administrator, MVD. This concept was my brain child along with John Cadby about two years ago. Somehow we were doing bankers' and car dealers' work. We were protecting their assets which we were suppose to do, but we thought there was a better way that we could get that asset off the books to protect. It has been a very good project. We have worked very hard with the private sector. This is the way to go for public/private partnerships. For the private sector in this project, it was an awakening for them in that these systems used to do this kind of work are not simple systems. They are complex systems and has taken more time than had been anticipated. The private sector has spent a great deal of money on this project. Very little money has been spent from the public sector. There will be some concern when we start talking registering vehicles with this system. There is no plan at this present time to register vehicles with this system. But again, as we look down the road, I believe it is the responsibility of the government to see if some of the kinds of things that we do out there can be done better with the private sector and in cooperation with the private sector. We support this project and will continue to work on this project.

One other issue I would bring up is that there is a fiscal note attached. It looks like there may be a \$150,000 note. There is no plan at the present to spend \$150,000 of state money. We just want to make sure people understand that when you do this kind of project with the private sector, there will be costs that government will have. We do believe that it is very cost effective but it is not free. When lending institutions file their own liens, it stops the counties from having to input all of that data. There are cost savings in that kind of thing. When we allow lending institutions to release their own liens, the title registration bureau will have cost savings of not having to mail documents back to the lending institutions who then have to mail those documents out to the public. So you see there will be tremendous cost savings and sometimes they are not directed just at state government but at government overall. The private sector takes the risk, hoping for a return on that investment; but having them take the risks and having us as partners does not make that all free for us. We hope this bill gets a Do Pass. Thank you.

John Cadby, MT Bankers Assoc. There has never been a way that the motor vehicle owner irritations have been solved. It has been a chronic problem for as long as I can remember. Motor vehicle transactions of processing, registrations, titling, lien filings sound fairly simple to do, but in the process of looking at the ins and out, it is extremely complicated. Most of the time that has been spent in inventing this new wheel has been labor from both private and public sector. Other states have

taken a look at this idea and walked away from it saying they would not spend \$5 million trying to figure out a way to do this since they already have the paperwork system in place. We have been extremely fortunate that a year and a half ago, we found a gentleman who was willing to put up the capital and work with others to put this project together. Of course, he hopes to recover his expenses. I doubt if the State would have been willing to fund the project. This is an ideal public-private partnership. And it may ultimately address the basic problems that motor vehicle owners have as well as dealers and lenders. It will be nice to be able to pull all information up on a specific vehicle on a computer. This would show all the hidden liens that are not shown on the paper title. These are things that computerology and the Internet make possible for everything to be transacted more efficiently. It doesn't eliminate state government jobs, but it will make it more effective and efficient. But as the state grows, more employees may not be needed. So, first we have to figure out how to do a search on a motor vehicle before a loan is made and then after the sale, go to the computer and dial up electronic access and file the lien. These are the first two steps. And this has taken 1½ years. Before one can implement any more changes beyond this, like releasing liens or registration, etc. we will have to come back to the Legislature every two years and say we now have this developed so now we would like to try the next step, etc. We hope you will support the bill. Thank you.

Bob Pyfer, Senior Vice President, MT Credit Unions League. The League represents 81 of Montana's 84 non-profit member-owned consumer/financial cooperatives. Credit unions traditionally do many motor vehicle loans. We view this new electronic lien filing and searching system as a means to enhance both the speed and economy of the lending process. We supported the bill two years ago and we have been involved to some extent with the development process and we would like to see this continue and therefore urge a Do Pass vote.

Mike Foster, MT Contractors Assoc. You may find it strange that we would stand up in support of this bill, but John Cadby has been very helpful to me in educating me in what this project is trying to accomplish. Our organization has in its sights the idea of promoting and establishing a pilot project similar to this or at least using this as a blueprint for the filing of construction liens. We see this as a great public/private partnership which we support as a concept and we hope this project will continue so that we can learn from it and be able to help our particular situation as well. Thank you.

Nancy Hargrove, Training and Development Supervisor, Dept of Justice, Motor Vehicle Division. I am the current project coordinator of the electronic lien filing. I speak in support of **SB 13**. This project brings together a working group from the Dept. of Justice, the County Treasurers Assoc., banks and credit unions, auto dealers and private enterprise. The task under current law to implement the pilot project is very complex. This group has worked hard to identify issues and set goals to improve customer service and file liens on motor vehicles quickly. I am proud of the work that has already been accomplished by the "lien team" and wish to see this project through to completion by extending the time this pilot project will operate. Tht will allow the team to look at all issues. Thank you.

Stuart Doggett, MT Manufactured Housing & RV Dealers Assoc. We would like to go on record as supporting **SB 13**.

Mr. Cadby asked if he could introduce the proponents who have worked on this project in case someone would like to ask them a question later. They are: **Norm Schilling, Electronic Access; Jackley Stean, Justice Information Systems Div.; Lisa Wanke, Justice Information Systems Div.; Brenda Nordlund, Asst. Attorney General, Motor Vehicle Div.**

{Tape : 1; Side : A; Approx. Time Counter : 16.7}

Opponents' Testimony:

Cort Harrington, MT County Treasurers Assoc. It has been referenced that the Montana Country Treasurers have been represented on the "lien team" and in fact the treasurers do support the idea of electronic lien perfecting and lien filing. However, this bill goes beyond that to the possibility of lending institutions and auto dealers being able to register motor vehicles. The county treasurers have concern about expanding the pilot project to registering motor vehicles. It has been testified that the lien filing is a very complex process. This has not yet been completed and we believe that this process should be completed first before the process is expanded to registration of motor vehicles. The revenue generated by registration of motor vehicles is part of the life blood of local government and there is a concern that any mistake or risk that might be taken, the burden of mistakes would fall on local government. They are not prepared to take that risk. With respect to the complexity of registration, currently a dealer may sell a car to someone who lives in Big Fork, MT. That dealer may send the paper work to Flathead County to do the paper work. In fact, the person who has a Big Fork address may live in Lake County, and currently they work with that and forward it on to

the proper county. And then within the counties, there are various different taxing jurisdictions and these jurisdictions must be identified for distribution purposes. In Lake County there are 26 different taxing jurisdictions. In Gallatin County there are 126 different taxing jurisdictions. That system is very complex. The county treasurers would support this bill if the language relating to title registration were removed. This could be addressed in a future piece of legislation. The addition of this now is premature.

Proponents' Testimony Continued:

Joe Mazurek, Attorney General, Dept. of Justice. I apologize for being late, but I had to be at an automated accounting bill for video gaming machines being heard in the House Business and Labor Committee. I would like to testify as a **proponent**. Thank you for allowing me to do this. I would like to assure the committee that the Department of Justice and Motor Vehicle Division support the extensions of this pilot project. It has been a wonderful effort in establishing a public/private partnership not only with the Montana Bankers Assoc. but also with Electronic Access. We are leading the nation in this respect in establishing access to information electronically for bankers, auto dealers and others who use this system. It is particularly critical to a car dealer who needs this information in a timely manner. Actually it is critical to many to have this kind of information in a quick and timely manner. We hope that it will be continued. Thank you.

{Tape : 1; Side : A; Approx. Time Counter : 22.9}

Questions from the Committee and Responses:

SENATOR BEA MCCARTHY asked **Nancy Hargrove** if she would walk the committee through what has been done so far. **Ms. Hargrove** replied that the steps that have been taken actually started to happen before she came to Helena in Sept. 1997. In May of 1998 she became a project leader and while things were well on their way, they had to identify the current practices for the Motor Vehicle Division to include the Title and Registration Bureau and the way a title goes through the process. They went so far as to identify the paper trail at how it starts at the county level where under current practice, the paper work comes in from an auto dealer, the lien is perfected by statute within 24 hours (or not) and then the customer comes in to register the vehicle. We also look at banking practices and lending institution practices on how they get notification that someone is interested in borrowing money against a vehicle. You can go to an auto dealer on any given day, and the customer may give that dealer a check drawn on a personal account. The dealer may not be aware that

there may be a lien because he has received a personal check. Once they established the practices that are currently in place then they had to look at the way that could be done better. They listed their concerns: cancellation of sale, transfer of the \$4 lien filing fee, customer service, the actual data entry. When a dealer enters a auto deal, they may enter it into their computer, generate an application for Montana title, the paper work goes to the county, it is entered again into the MVD system and this could cause errors in reference to the VIN (vehicle identification number). They have taken small steps in identifying current practices and then try to make it better.

SEN. MCCARTHY asked if the paper trail is going to go with the vehicle, not with the individual. In other words, a car is sold, the serial number is put into it and the loan is started from that process down. If I sell the car to my son or to my neighbor, the paper trail goes on the vehicle and not on the person. **Ms. Hargrove** said the title has the year made on the motor vehicle and once that title is generated, the transfer of ownership is followed. But the vehicles we're looking at right now are the new vehicles, new from the manufacturer's certificate of origin where there is no additional required paperwork. Under that circumstance, the auto dealer has the manufacturer's certificate of ownership and application for title is made from that application and then enters the title process.

SEN. MCCARTHY asked if at the end of the trail the vehicle is in an accident and is demolished, where is the end to the system.

Ms. Hargrove said from the first time the motor vehicle is registered and titled in Montana, that information is kept on file. If the vehicle is totaled or partially wrecked, and is five (5) years old or newer, it is marked "salvaged", "flood", etc., i.e. branded with that information. Until that vehicle goes out of state, it remains on the motor vehicle database.

SENATOR DALE BERRY asked if it wouldn't be simpler for the treasurer to clean up the mistakes, rather than manually track that. **Cort Harrington** explained a mistake could be if a dealer sent paperwork to Flathead County, for example, because they assume the person was from Bigfork which they assume was in Flathead County. They register that vehicle in Flathead County and are surprised when the license plates are "7" instead of "15." At that point, the taxpayer will have to go to Flathead County and then back to Lake County. Currently, the treasurer looks at it and knows the person is not from Flathead County and then corrects the mistake. He said there was a situation in Gallatin County where a fire district ended up suing the County, saying they didn't get their share of the taxes; in fact, the County had to make good on it. The people who work in the County

Treasurer's office are the ones who have the interest in making sure the vehicle gets placed in the appropriate taxing jurisdiction. Basically, the registration of a motor vehicle serves two (2) purposes: (1) The title; (2) Revenue source for the counties. We support this public/private partnership with respect to the titling, lien filing, lien perfecting; however, the revenue aspect has potential pitfalls and it may be premature to be adding that to the system at this point, although we support the pilot program.

{Tape : 1; Side : A; Approx. Time Counter : 31.5}

SENATOR MIKE SPRAGUE said Montana was not a title-holding but a lien state. Would the electronic styling make Montana a title-holding state? Would reciprocity be possible, or is that in the future? **John Cadby** said the treasurers and others are envisioning a whole bunch of processes which nobody has figured out how to do, let alone worry about right now. It has taken one and-a-half years to enable a dealer to punch up on his computer to see if there are any liens on the title; also, when he sells the vehicle or the bank makes a loan, the lien can be filed electronically. The paper trail stays in place. The car will still have to be registered at the county seat -- all that is being done electronically is allowing the search to take place to ensure the trade-in is clean or who has liens; and before the new car is driven off the lot, the lien can be perfected against the vehicle and against you. On Monday morning the paperwork goes to the county, within 30 days the owner has to go to the county to pay the taxes and register the vehicle. Nothing had changed in that -- he didn't understand why there was a concern about taxing jurisdictions. The motor vehicle owner would still get physical possession of the title if in the next two (2) years a way can be found to have an electronic title. We'll have to come back to you in 2001 and ask for permission to eliminate the paper title and give every owner an electronic title; or maybe, if we can figure out a way, to register the renewal with the county through the Internet instead of by mail. But an experiment has to be done before great new ideas can be launched.

SEN. SPRAGUE commented he supported that concept and complimented the sponsor.

SENATOR JOHN HERTEL asked for a figure of revenue lost. **Cort Harrington** said certain counties had an option of tax while others didn't -- he couldn't give a specific example. Overall, there may not be a significant loss of revenue -- if I said there would be a revenue loss, I may have mistakenly spoken; however, the allocation of the revenue may be incorrect. The county treasurer collects the revenue and distributes it to a variety of

taxing jurisdictions. If that distribution is incorrect because the vehicle was registered improperly and subsequently discovered, the question was who was responsible for making the one taxing jurisdiction whole. With the general climate of taxes in Montana, local government jealously guards its existing tax revenue sources. There may be a mis-allocation and the county has to make up the difference.

SEN. HERTEL wanted to ensure he understood **Cort Harrington** correctly by asking him if he would support **SB 13** if the registration part was out of it and was told he would. **Mr. Harrington** said the county treasurers believed at this point it was premature to add title registration to this pilot project.

{Tape : 1; Side : B; Approx. Time Counter : 0.2}

(**SEN. HERTEL'S** question was lost due to turning the tape over. Testimony resumes with **Dean Roberts** answering the question).

.....county treasurers are protective of that job of registering vehicles and some bills are coming up during this Session which support a flat license fee. He said they always supported that; therefore, he didn't see that in the next two (2) years they would register vehicles. There is, however, a misconception -- the system now in use would allow him to register a vehicle in Ekalaka from Helena because everyone's tax is calculated based on the county of residence. Even though it is possible to register vehicles that way, policy-wise it is not done, because the law says one must go to the county treasurer of their home county. Fees are calculated by individual's address.

SEN. HERTEL asked why that language was in the bill. **SEN. MCNUTT** said it was a pilot project and if one went to the trouble and expense and do all the background work to develop a lien filing and lien search system, why wouldn't you integrate that into a possible registration system in the future. This is a pilot project and nothing in the bill says in two (2) years electronic registration would be forced. He said he would resist taking that out.

SEN. MCCARTHY commented if the language were removed now, it would have to be replaced in about two (2) years. **SEN. MCNUTT** affirmed, explaining it would have to come as part of the whole system. He said Montana was leading the nation in this electronic endeavor and he visualized they would be back saying they would have to take that step.

SEN. SPRAGUE suggested they were really micro-managing a bit of the private sector to explore an opportunity and were quibbling

over registration turf. He thought private enterprise needed some latitude and flexibility and if the registration was just a sequential part of that process, he couldn't imagine government getting in the way. **SEN. MCNUTT** agreed they shouldn't micro-manage at this point because when there is interest in the investment to go forth with this project, it should be allowed to develop. He couldn't visualize a private company would demand that a state agency do registration. This Legislature will eventually have its fingerprints on it; however, it shouldn't be stifled.

Closing By Sponsor:

SEN. MCNUTT thanked the Committee for a good hearing and thought he encapsulated all the things he was concerned about. He reinforced the fact **SB 13** was a pilot project which needed to be made into a complete comprehensive package. He urged letting it develop and watching it over the next two (2) years through the good team effort now in place to work the glitches out. He recommended a DO PASS.

{Tape : 1; Side : B; Approx. Time Counter : 5.7}

EXECUTIVE ACTION ON SB 23

Bart Campbell explained Amendment SB002302.aem **EXHIBIT (bus08a01)** and said opponents from the State Fund came to him after **SB 23** had been passed out of Committee with its first amendment which had been prepared by Eddy McClure. The first amendment changed "20" to "25%" on page 2, line 7. They felt that the actual wording on the ballot should reflect the 25% maximum -- they felt it would have a better chance of passing if the voter could see that. He referred to amendment SB002302 (page 2, line 16 and page 2, line 18) and said the voter would mark **FOR** allowing a maximum of 25% or **AGAINST** allowing 25%.

Discussion:

SEN. SPRAGUE said when he read the ballot issue he didn't think Line 16 was clear to the voting public and he suggested the change.

SEN. HERTEL reiterated the amendments made the issue easier to understand for the voters.

Motion/Vote: **SENATOR VICKI COCCHIARELLA** moved **ACTION** on **SB 23 BE RECONSIDERED**. Motion carried unanimously 7-0.

Motion/Vote: **SEN. COCCHIARELLA** moved **DO PASS** on **SB 23 AMENDMENTS SB002302.aem**. Motion carried unanimously 7-0.

Motion/Vote: **SEN. COCCHIARELLA** moved **DO PASS AS AMENDED** on **SB 23**. Motion carried unanimously 7-0.

{Tape : 1; Side : B; Approx. Time Counter : 9.7}

EXECUTIVE ACTION ON SB 13

Discussion:

SEN. MCCARTHY referred to **SEN. MCNUTT'S** testimony when he said if what was suggested on the registration was removed, it would have to be revisited in two (2) years -- why go to the cost of rewriting the bill.

SEN. HERTEL said as far as the county treasurers were concerned, it was trivial.

SEN. BERRY asked if a sunrise provision was ever put into a bill and was told it was. He commented further by saying the bill could say the registration was done and would not be acted upon again, but it won't come into effect until 2000 or whatever.

SEN. MCCARTHY suggested by committing to that, it could be ahead of where they were on their training.

Bart Campbell said technically, the way it should go, would be to redo the bill a bit and put the registration into its own section and give that section a future date.

SEN. HERTEL said one of the Department people mentioned something about the titles but they were already in Line 28.

Motion/Vote: **SEN. MCCARTHY** moved **DO PASS** on **SB 13**. Motion carried unanimously 7-0.

ADJOURNMENT

Adjournment: 10:06 A.M.

SEN. JOHN HERTEL, Chairman

SENATE COMMITTEE ON BUSINESS AND INDUSTRY

January 12, 1999

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MARY GAY WELLS, Secretary

JH/MGW